

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:01CR29(6)
	§	(Judge Crone)
	§	
FREDERICK RENARD SPILLMAN	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 4, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by David Shapiro.

On September 21, 2001, Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to a sentence of 65 months imprisonment followed by an eight-year term of supervised release for the offense of Conspiracy to Manufacture, Distribute, Possess with Intent to Manufacture, Distribute or Dispense Cocaine Base. Defendant began his term of supervision on September 10, 2012. On November 5, 2012, the case was reassigned to the Honorable Marcia A. Crone, United States District Judge.

On March 4, 2013, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 411). The Petition asserts that Defendant violated

the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer; (4) Under the guidance and direction of the U.S. Probation Office, Defendant shall participate in a program of psychiatric and mental health services and shall comply with any medication requirements as prescribed by the treatment provider; (5) Defendant shall participate in a program of testing and treatment for drug abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer; (6) Defendant shall pay a \$4,000 fine at a rate of at least 10% of Defendant's monthly gross income.

The Petition alleges that Defendant committed the following violations: (1) On September 26, October 11, December 19, 2012, and February 11, 2013, Defendant submitted urine specimens that tested positive for marijuana. On October 11, 2012, and February 11, 2013, Defendant submitted urine specimens that tested positive for cocaine; (2) Defendant admitted to using marijuana on September 26, October 11, and December 19, 2012. Alere Laboratories confirmed said cocaine positives and the marijuana use on February 11, 2013; (3) Defendant failed to submit urine specimens for testing as instructed at Heritage Park Plus, Sherman, Texas, a part of the random drug testing program on September 28, October 8, and November 28, 2012; (4) Defendant failed to attend his scheduled mental health and drug aftercare counseling sessions at Pillar Mental Health Services, Sherman, Texas, on November 6, 9, 13, 27; December 4, 18, 2012; January 23, 29, and February 6,

2013; (6) On September 26, 2012, Defendant was instructed to submit payments monthly toward the fine at the rate of at least 10% of his income. As of March 4, 2013, Defendant has not made any payments toward the fine.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the April 4, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, with eighty-eight (88) months supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Seagoville, Texas, if appropriate.

SIGNED this 6th day of May, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE